

## Message Text

CONFIDENTIAL

PAGE 01 BONN 07145 021802Z

72

ACTION EUR-12

INFO OCT-01 ISO-00 SS-15 L-02 H-02 CAB-02 CIAE-00 COME-00

DODE-00 DOTE-00 EB-07 INR-07 NSAE-00 FAA-00 NSC-05

/053 W

----- 005070

R 021746Z MAY 75

FM AMEMBASSY BONN

TO SECSTATE WASHDC 9810

INFO USMISSION USBERLIN

C O N F I D E N T I A L BONN 07145

E.O. 11652:GDS

TAGS: PFOR, EAIR, US, GW, WB

SUBJECT: PAN AMERICAN CLAIM AGAINST FRG OVER 1973

CONTROLLERS SLOW-DOWN

REF: A. STATE 91356 B. BONN 5625

1. AS INDICATED IN REF TEL EMBASSY HAS NOT ASSOCIATED ITSELF WITH ANY LEGAL ARGUMENTATION DEVELOPED BY PAA IN SUPPORT OF ITS COMPENSATION CLAIM. IN LIGHT OF THE TRANSPORT MINISTRY'S (FMT) LEGAL ADVISOR'S POSITION ON THE NATURE OF THE FRG'S OBLIGATIONS UNDER THE 1952/54 CONVENTION, WE BELIEVE PAA'S EFFORT TO RESOLVE THE ISSUE ADMINISTRATIVELY BY SEPARATING LOSSES ON THE IGS FROM THOSE ON THE AIRLINE'S OTHER OPERATIONS IS A DEAD LETTER FROM THE FMT'S VIEWPOINT. WE HAVE GAINED THE IMPRESSION FROM PAA DIRECTOR RUNNETTE'S SUBSEQUENT REMARKS THAT HE TOOK KELLER'S POINT, AND MAY WELL HAVE RECOMMENDED PAA/US APPROACH THE DEPARTMENT WITH A VIEW TO ENGAGING USG SUPPORT FOR THE IGS COMPONENT OF THE AIRLINE'S LOSSES. RUNNETTE HAS ALSO TOLD US HE HAS NOT PROVIDED ANY ADDITIONAL FIGURES TO THE FMT SINCE THE MATTER IS PRESENTLY UNDER CONSIDERATION BY PAA HEADQUARTERS.

2. WE ARE PRESENTLY DISCREETLY SEEKING TO DEVELOP  
CONFIDENTIAL

CONFIDENTIAL

PAGE 02 BONN 07145 021802Z

INFORMATION ON THE STATUS OF THE CIMBER AIR

KIEL COURT CASE. IN THIS CONNECTION, UNSUBSTANTIATED RUMORS IN TRADE CIRCLES SUGGEST THAT LUFTHANSA ORIGINALLY CONTEMPLATED TAKING SIMILAR LEGAL ACTION AGAINST THE FRG, BUT WAS CONVINCED NOT TO DO SO BY THE LATTER IN ORDER TO AVOID OPENING THE DOOR TO LEGAL PROCEEDINGS BY SOME 40 AIRLINES. THESE RUMORS SUGGEST THAT LUFTHANSA'S SIGNIFICANT LOSSES DURING THE ATC SLOWDOWN WILL EVENTUALLY BE MADE UP THROUGH LOW INTEREST LOANS, ETC., AS PART OF THE FRG'S NORMAL SUBSIDIZATION OF THE CARRIER'S OPERATIONS. AGAINST THIS BACKGROUND WE WOULD EXPECT THAT THE FRG WOULD EXHAUST ALL POSSIBLE LEGAL REMEDIES BEFORE ACCEPTING THE KIEL COURT DECISION, EVEN THOUGH THE ACTUAL CASE IN HAND ONLY INVOLVES MARGINAL LOSSES BY A REGIONAL CARRIER.

3. COMMENT: WE SHARE THE DEPARTMENT'S VIEW THAT THE FRG CAN BE CONSIDERED TO HAVE MADE EVERY REASONABLE EFFORT TO FULFILL ITS OBLIGATIONS TO THE BERLIN SERVICES FLOWING FROM THE 1952/54 CONVENTION DURING THE CONTROLLERS' SLOWDOWN. WE, THEREFORE, SEE NO SOLID BASIS JUSTIFYING A USG DEMARCHE. INDEED, GIVEN THE HARD LINE ADOPTED BY THE FRG AGAINST ANY CLAIMS ARISING FROM THE SLOWDOWN, WE THINK USG INTERVENTION IN SUPPORT OF PAA'S DEVICE TO TREAT ITS IGS LOSSES SEPARATELY WOULD INVOLVE US IN AN UNPRODUCTIVE BILATERAL CONTROVERSY WITH FRG OFFICIALS. MOREOVER, WE DOUBT WE COULD EXPECT MUCH BRITISH AND FRENCH SUPPORT FOR SUCH AN EFFORT. (WE ARE, HOWEVER, NOT OVERLY CONCERNED THAT THE GERMANS WOULD PERMIT THE ISSUE TO IMPACT ON OUR SHARED BROADER INTERESTS AS REGARDS THE BERLIN SERVICES.)

4. BASED ON THE ADMITTEDLY SCANTY INFORMATION WE HAVE AT HAND, WE WOULD TEND TO THINK PAA'S ONLY REALISTIC OPTION WOULD BE TO TREAT ITS IGS CLAIM ON THE SAME BASIS AS THE LOSSES INCURRED ON ITS INTERNATIONAL SERVICES AND TO PURSUE ITS CLAIM ALONG CONVENTIONAL LEGAL LINES. WE WOULD THEREFORE RECOMMEND ADVISING PAA THAT THE USG DOES NOT FIND A GOVERNMENT TO GOVERNMENT INITIATIVE IN THE CONTEXT OF THE CONVENTION JUSTIFIED OR FOR THAT MATTER ADVISABLE. AT THE SAME TIME, WE THINK IT WOULD BE USE-CONFIDENTIAL

CONFIDENTIAL

PAGE 03 BONN 07145 021802Z

FUL TO REVIEW WITH LOCAL PAA EXECUTIVES AND LEGAL ADVISORS THE ALTERNATE APPROACHES REFERRED TO IN THE MEMO SUBMITTED TO THE FMT. (WE ARE NOT IN A POSITION TO EVALUATE THE IMPLICATIONS OF PARA 839 OF THE GERMAN CIVIL CODE OR "AUFOPFERUNG" WITHOUT SEEKING LOCAL LEGAL OPINION.) WHILE WE ARE NOT PARTICULARLY SANGUINE ABOUT THE FINAL OUTCOME OF THE CLAIM, WE BELIEVE PAA'S CON- TENTION THAT IT SUFFERED SUBSTANTIAL LOSSES BECAUSE OF

THE CONTROLLERS' ACTION DESERVES FURTHER ATTENTION  
ON OUR PART. ACTION REQUESTED: DEPARTMENT'S VIEW RE  
APPROACHING PAA ALONG THE ABOVE LINES. HILLENBRAND

CONFIDENTIAL

NNN

## Message Attributes

**Automatic Decaptioning:** X  
**Capture Date:** 01 JAN 1994  
**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
**Concepts:** LITIGATION, AIR TRAFFIC CONTROL, LABOR STRIKES  
**Control Number:** n/a  
**Copy:** SINGLE  
**Draft Date:** 02 MAY 1975  
**Decaption Date:** 01 JAN 1960  
**Decaption Note:**  
**Disposition Action:** RELEASED  
**Disposition Approved on Date:**  
**Disposition Authority:** ellisoob  
**Disposition Case Number:** n/a  
**Disposition Comment:** 25 YEAR REVIEW  
**Disposition Date:** 28 MAY 2004  
**Disposition Event:**  
**Disposition History:** n/a  
**Disposition Reason:**  
**Disposition Remarks:**  
**Document Number:** 1975BONN07145  
**Document Source:** CORE  
**Document Unique ID:** 00  
**Drafter:** n/a  
**Enclosure:** n/a  
**Executive Order:** GS  
**Errors:** N/A  
**Film Number:** D750155-0271  
**From:** BONN  
**Handling Restrictions:** n/a  
**Image Path:**  
**ISecure:** 1  
**Legacy Key:** link1975/newtext/t19750583/aaaacyjs.tel  
**Line Count:** 118  
**Locator:** TEXT ON-LINE, ON MICROFILM  
**Office:** ACTION EUR  
**Original Classification:** CONFIDENTIAL  
**Original Handling Restrictions:** n/a  
**Original Previous Classification:** n/a  
**Original Previous Handling Restrictions:** n/a  
**Page Count:** 3  
**Previous Channel Indicators:** n/a  
**Previous Classification:** CONFIDENTIAL  
**Previous Handling Restrictions:** n/a  
**Reference:** 75 STATE 91356, 75 BONN 5625  
**Review Action:** RELEASED, APPROVED  
**Review Authority:** ellisoob  
**Review Comment:** n/a  
**Review Content Flags:**  
**Review Date:** 29 MAY 2003  
**Review Event:**  
**Review Exemptions:** n/a  
**Review History:** RELEASED <29 MAY 2003 by BoyleJA>; APPROVED <07 OCT 2003 by ellisoob>  
**Review Markings:**

Margaret P. Grafeld  
Declassified/Released  
US Department of State  
EO Systematic Review  
05 JUL 2006

**Review Media Identifier:**  
**Review Referrals:** n/a  
**Review Release Date:** n/a  
**Review Release Event:** n/a  
**Review Transfer Date:**  
**Review Withdrawn Fields:** n/a  
**Secure:** OPEN  
**Status:** NATIVE  
**Subject:** PAN AMERICAN CLAIM AGAINST FRG OVER 1973 CONTROLLERS SLOW-DOWN  
**TAGS:** PFOR, EAIR, US, GE, WB, PANAM  
**To:** STATE  
**Type:** TE  
**Markings:** Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 05 JUL 2006